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20 UNITED STATES DISTRICT COURT
21 FOR THE NORTHERN DISTRICT OF CALIFORNIA
22 SAN FRANCISCO DIVISION

23 AMERICAN FEDERATION OF
24 GOVERNMENT EMPLOYEES, AFL-CIO;
25 AMERICAN FEDERATION OF STATE
26 COUNTY AND MUNICIPAL EMPLOYEES,
27 AFL-CIO, et al.,

28 Plaintiffs,

v.

UNITED STATES OFFICE OF PERSONNEL
MANAGEMENT, et al.,

Defendants.

Case No. 25-cv-01780-WHA

PLAINTIFFS' STATUS REPORT

1 Plaintiffs provide the following update and status report regarding matters pending before the
2 Court.

3 1. Plaintiffs have continued to receive additional information regarding the Department
4 of Commerce, National Oceanic and Atmospheric Administration (NOAA)’s reinstatement of the
5 prior unlawful terminations retroactive to the original termination date. *See* Dkt. 199 at 7.
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7 Attached as Exhibit A is a notice received by Plaintiffs’ counsel from multiple sources, which
8 appears to be a notice NOAA is providing to previously terminated probationary employees that had
9 been reinstated pursuant to the Maryland court’s order, now stayed. The notice makes clear that this
10 agency is enforcing the *original* unlawful termination, not engaging in any independent decision-
11 making as to whether to terminate these employees: “[Y]our separation from federal service has been
12 made retroactive to February 27, 2025”; “All benefits are based on the retroactive separation date.”
13 Thus, two months after the fact, the Department of Commerce is retroactively cutting off health
14 benefits backdated to the original unlawful termination date, subject only to limited extensions that
15 employees now must pay for (“Federal Employees Health Benefits (FEHB): Your FEHB coverage
16 ended March 8, 2025, which was the last day of the pay period in which you separated and your last
17 eligible day of coverage based on the February 27, 2025 separation date”; “Services received on or
18 after April 9, 2025, will not be covered unless you elect Temporary Continuation of Coverage
19 (TCC)”). NOAA employees are further informed, because of the enforcement of the original
20 termination date, that the free month of post-employment coverage provided to federal workers has
21 already expired (to be clear: while they were employed on administrative leave, as ordered by a
22 federal court). With respect to dental and vision insurance (which employees could have used, during
23 the covered administrative leave period), the government is now eliminating that coverage
24 retroactively to February 27 and telling employees to “contact your ... carrier” to “resolve any billing
25 issues” for services used after that date. To be clear, these are employees who were reinstated by the
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1 Maryland court order, and, now that the order has been stayed, are being subjected to the *original*
2 termination date, with a purported retroactive elimination of benefits that they may have already
3 used. The NOAA employees subject to this notice were *unlawfully terminated*, and should not be
4 treated in such an utterly callous and unlawful manner.

5
6 The Department of Commerce is an agency covered by both the Public Sector Unions' and
7 State of Washington's pending injunction requests. There is no lawful basis for the February
8 terminations this agency is now attempting to enforce, and Plaintiffs respectfully request this Court
9 grant the requested injunctive relief urgently to protect these and the other employees of the identified
10 agencies subject to these entirely unlawful OPM orders from such treatment.

11 2. As set forth in Plaintiffs' April 11, 2025 submission, Plaintiffs renew their request that
12 the Court enter further injunctive relief, to restore the status quo at the agencies where the Public
13 Sector Unions represent employees. Dkt. 199. Plaintiffs have demonstrated both associational and
14 organizational standing that supports a preliminary injunction at those agencies that is not limited to
15 only the members of Plaintiffs.

16
17 With respect to the effort to identify additional union members terminated by Defendants,
18 Plaintiffs provide the following update. At the April 9, 2025 hearing on Plaintiffs' pending motions
19 for further preliminary injunction, the counsel and the Court discussed the government providing
20 Plaintiffs with unredacted lists of terminated probationary employees, and a protective order that
21 would permit the confidential exchange of the employee names to "allow the unions to see it so they
22 can figure out if XYZ is a member of the union." Tr. at 45-46. The parties promptly submitted the
23 protective order (Dkt. 193), which the Court approved on April 14, 2025 (Dkt. 200). The parties
24 subsequently exchanged unredacted lists of employee names: Plaintiffs provided the lists of
25 members submitted to the Court on April 11 (Dkt. 199-2, 199-3), and Defendants provided Plaintiffs
26 with the lists of employees previously filed under seal with respect to the six agencies covered by the
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1 original preliminary injunction only.

2 Plaintiffs subsequently requested Defendants provide information in native format, in light of
 3 the difficulty of using the pdf form of these materials to identify members, and await Defendants'
 4 production of those native format documents, which we expect on Monday, April 21. Plaintiffs are
 5 continuing to diligently attempt to identify members using the PDFs, and will update that effort once
 6 the native format documents have been received. Plaintiffs requested that Defendants provide the
 7 lists for all agencies subject to the pending motions for preliminary injunction, but Defendants
 8 objected to providing that information as beyond their interpretation of this Court's remarks at
 9 hearing and denied that request.
 10

11 Respectfully submitted,

12 DATED: April 18, 2025

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